

Without objection, it is so ordered.

### GOVERNMENT DESTRUCTION OF EVIDENCE

Mr. DURBIN. Mr. President, this morning, newspapers across America reported that the Central Intelligence Agency and other intelligence agencies have destroyed evidence, videotaped evidence of the interrogation of prisoners. It is a startling disclosure. The United States of America, a nation where the rule of law is venerated, has now been in the business of destroying evidence, evidence of a very sensitive nature, evidence which clearly should have been protected for legal and historic purposes.

The late historian Arthur Schlesinger said this about this administration's legal defense of torture:

No position taken has done more damage to the American reputation in the world—ever.

We have been tested since 9/11 as a nation, tested in our resolve to protect America, but also tested in our commitment to the values we hold dear.

A time of war and a time of insecurity is a time of the greatest testing. Many Presidents, even great Presidents in the past, have failed that test: President Abraham Lincoln during the Civil War suspending habeas; during World War I, serious questions were raised about the patriotism of those who did not agree with our Government; during World War II, under the administration of perhaps our greatest modern President, Franklin Roosevelt, Japanese internment camps that became a national embarrassment; during the Cold War, our enemies list and the McCarthy hearings; all things that we look back on now and realize do not reflect well on the United States and certainly do not reflect our values.

Now, this administration, this war on terror, this treatment of prisoners and detainees, it comes to our attention almost on a weekly basis that, sadly, some have crossed the line. Every week there is a new revelation about how the administration has engaged in activity that is not consistent with American laws or values when it comes to the issue of torture.

In this morning's paper, CIA officials disclosed they destroyed videotapes of detainees being subjected to so-called enhanced interrogation techniques. We do not know what those videotapes included.

There was a period of time when the Bush administration had decided to cast away the international standards of conduct, the Geneva Conventions that we have been held to and proudly displayed for decades. This administration redefined torture. Through a memo that has now been made public, we know they reached extremes, which eventually even they had to repudiate.

The CIA has also reportedly withheld information about these videotapes from a Federal court and from the bipartisan 9/11 Commission.

Today I am sending a letter to Attorney General Michael Mukasey calling on him to investigate whether CIA officials who covered up the existence of these videotapes violated the law.

In a statement yesterday, GEN Michael Hayden, the CIA Director, acknowledged the tapes were destroyed, and stated:

In 2002, during the initial stage of our terrorist detention program, CIA videotaped interrogations, and destroyed the tapes in 2005.

The New York Times reported today that:

The tapes were destroyed in part because officers were concerned that video showing harsh interrogation methods could expose agency officials to legal risks, several officials said.

Now, the defense of the CIA is that they wanted to protect the identity of those CIA employees who were engaged in the interrogation. That is not a credible defense. We know that it is possible and, in fact, easy to cover the identity and faces of those who were involved on any videotape. Something more was involved.

The CIA apparently withheld information about the existence of these videotapes from official proceedings, including the bipartisan Hamilton-Kean 9/11 Commission and a Federal court. According to Philip Zelikow, the Executive Director of the 9/11 Commission and formerly a high-ranking official in the Bush administration:

The Commission did formally request material of this kind from all relevant agencies, and the Commission was assured that we had received all of the material responsive to our request. No tapes were acknowledged or turned over, nor was the commission provided with any transcripts prepared from recordings.

CIA attorneys told the Federal court hearing the case of Zacarias Moussaoui that videotapes of detainee interrogations did not exist. This was a statement by our Government to a court involved a very sensitive and important case.

The Justice Department has now acknowledged in a letter to the court that this was not true. Courts of America were misled by the Justice Department about the existence of this evidence.

CIA Director Hayden asserts the videotapes were destroyed "in line with the law." But listen to what the Federal obstruction of justice statute says:

Whoever corruptly alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

That is what the Federal criminal statute says. It is not my role or Mr. Hayden's role to determine whether the law was violated. That is the responsibility of the Department of Justice. That is the responsibility of the Attorney General, Michael Mukasey.

As Mr. Zelikow said:

The executive branch and Congress need to decide how much they care about this question. If they want to get to the bottom of it, it's pretty easy for people to dig up the relevant records and answer the questions that either officials of the executive branch or the Congress could pose.

This is the first real test of Attorney General Michael Mukasey. I hope he will do the right thing.

What is at stake goes to the heart of the rule of law and justice in America. If our Government can destroy evidence, can misrepresent to our courts whether that evidence ever existed, if it can attempt to cover up wrongdoing, that goes way beyond the standards of justice and the values of America.

This disclosure of the destruction of those videotapes goes to the heart of who we are as a people. I do not know what was on those tapes. It was clearly something very troubling or they would not have been destroyed. I do not even know if it was incriminating, but we have a right to know. In America, everyone is held accountable, including officials at the highest levels of our Government.

It is time for this Department of Justice to turn the page from an era when we were engaged in a new definition of torture, a new definition of whether the Geneva Conventions were applicable, and bring us back into the rule of law, into those standards of conduct which have made America proud for so many generations.

Today I will be sending a letter to Attorney General Mukasey calling for an official investigation of whether there was destruction of evidence and obstruction of justice in the destruction of those videotapes on the interrogation of detainees. This is not an issue that can be ignored.

### TRIBUTE TO REYNALDO P. GLOVER

Mr. DURBIN. Mr. President, I come to the floor today to pay tribute to a champion of African-American advancement, Reynaldo Glover.

A lawyer by training, Glover had a knack for business. In 1994, he became general counsel of TLC Beatrice International Holdings, later known as TLC-LC, Inc., a multinational food company started by Glover's friend and Harvard Law classmate Reginald Lewis in 1987.

Glover soon took over the role of executive vice president, and it was under his leadership that, in 1996, TLC-LC posted sales of \$2.2 billion. With operations in more than 30 countries, the company became widely recognized as the Nation's largest African-American-owned business.

While Reynaldo Glover's accomplishments in the business world are unquestionably impressive, he is probably better known for his passionate work to provide access to high-quality education to young men and women from low-income families.

Glover grew up in a low-income neighborhood in Gary, IN. After high